Supreme Court, U.S.
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No. 94 - 1231

in the

Supreme Court Of The United States

October Term 1994

JOSEPH R. CATERINA
AND ALL OTHERS SIMILARLY SITUATED, ET AL.
Petitioners

vs.

BLAKELY BOROUGH; ARCHBALD BOROUGH; LACKAWANNA COUNTY REDEVELOPMENT AUTHORITY; LACKAWANNA COUNTY; DEPARTMENT OF ENVIRONMENTAL RESOURCES OF PA.; DEPARTMENT OF GENERAL SERVICES OF PA.; GENERAL STATE AUTHORITY OF PA.; LACKAWANNA COUNTY SHERIFF'S OFFICE; UNITED STATES ARMY CORPS OF ENGINEERS; U.S. DEPARTMENT OF INTERIOR; CECO ASSOCIATES, INC., a Corporation of PA.; PA. DEPARTMENT OF TRANSPORTATION; THE LAW FIRM OF FOLEY, MCLANE, NEALON, FOLEY & MCDONALD; JOSEPH M. MCDADE; JOHN ORMASA; HILLS OF ARCHBALD; INC., a corporation of PA.; UNKNOWN OWNERS LEO ZINI & MARK ZINI, 528-526 SHORT AVE., PECKVILLE, PA.; U.S. DEPARTMENT OF SURFACE MINING IN N.E. PA.; and EDWARD J. GHILARDI; ET AL.

Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITIONER'S REPLY BRIEF

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Feb. 15, 1995

7 pp

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PETITIONER'S REPLY BRIEF

ON PETITION FOR WRIT OF CERTIORARI
TO THE THIRD CIRCUIT COURT OF APPEALS

Respondents' arguments highlight why this Court should grant the petition. Respondents concede that the District Court failed to address the Petitioners request for an Environmental Impact Statement (EIS) and that no EIS was ever obtained by the government. Further Respondents admit that the EIS is a Federal Law; The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370(b), and imply that Federal moneys are involved.

Additionally Respondents cite that any flooding taking place after this flood project is built, that the flooding would be of a temporary nature only. The Petitioners have never been flooded what-so-ever in 75 to 100 years and have been free from this inherent danger! Why should Petitioners subjuate themselves to periodic inundation at this late date? Respondents concede the issues presented by the Petitioners.

These issues are now ripe for resolution by this Court. Now is the time to resolve these matters before any injuries are inflicted upon the Petitioners unnecessarily!

Furthermore! Eminent Domain Proceedings by the Respondents was not yet instituted at the time of the filing of the original Complaint in the District Court and was therefore a non-issue at that time.

No amount of compensation can be just enough to exposes one's family, home and property to the newly created 'inherent danger' of being exposed to not only the threat of flooding but of actual periodic inundation itself 2100% above normal for the watershed!

Possession of the cited property is fatally flawed in as much as a Writ of Possession was obtained without a hearing as is required by Law and Constitution and NO

ORDER or copy thereof, either by the Court or the Respondents, was given to Petitioners' Attorney who timely appeared and answered the Action Writ of Possession. Petitioners Preliminary Objections were cross-filed with District Court, Docket Entry 70; App. 55a with a copy of Complaint Docket Entry 1; App. 6a. Respondents may have committed a 'fraud' upon the Court who issued said Writ of Possession!

> Under 42 USC, Sections 1983, Civil Action for deprivation of rights 40a, and
> Under 42 USC, Sections 1985, Conspiracy to interfere with civil rights 40a, and
> Under 42 USC, Sections 1986, Action for neglect to prevent conspiracy 40a.

there is no diversity barring the District Court jurisdiction.

Anytime someone places the Petitioners' Family, Home and Possessions in 'inherent danger' unnecessarily against their will and without their consent the issue of Constitut-

ional rights and transgressions thereof is ripe for litigation and will windup in some Court and to place double cost sanctions upon said Petitioners only places more Constitutional fuel upon an already roaring Constituional fire, such as the instant case.

There exists a conflict with the prior decisions of the United States Court of Appeals, for the Third Circuit with regard to Frauds upon the Court as was instituted by some, if not most all, of the Respondents.

Cite:

Hazel-Atlas Glass Co. v. Hartford Empire Co. 322 U.S. 238-250; 64 S. Ct. 997; 88L Ed 1250 (1944) Pet Writ Cert 4,App.4

Root Refining Co. v. Universal Oil-Products Co., supra (CCA 3d, 1948) 169 F 2d514 534-535; Petitioners Writ Cert. 4, App.4

The Court failed to honor its' prior rulings with regard to the instant case.

CONCLUSION

The Petitioners have expressed that the decisions are in conflict with other prior decisions of the lower Court and that the Court did have subject matter jurisdiction and a Federal Question was involved and that this Case has not been prolonged by the Petitioners .

WHEREFORE, for the foregoing reasons, the Petitioners herein respectfully submit that this petition for writ of certiorari should <u>be granted!</u>

Respectfully submitted,

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and all others similarly
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Date: 15 February 1995